In the High Court of Judicature at Madras

Dated: 22.02.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

Writ Petition No.6562 of 1999
and WPMP.No.9494 of 1999

Arumbakkam Harijan Co.operative
Building Society Ltd., (Regn.No.
XNC-473) rep. by its President
T. Munusamy. ..Petitioner

..vs..

1.The Commissioner
Corporation of Chennai
Corporation Buildings
Chennai 3.

2.The Zonal Officer
Zone No.V
Corporation of Chennai
183, Periyar EVR Road
Chennai 10.

3.The Executive Engineer
Division No.75
Corporation of Chennai
State Bank Staff Colony
Arumbakkam, Chennai 106.

4.The Revenue Divisional Officer
Corporation of Chennai
Chennai 3. ..Respondents

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Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus as stated therein.

For Petitioner : Ms. A. Jagadeeswari

For Respondents : Mr. T. Mathi

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ORDER

(Order of the Court was made by P.SATHASIVAM,J.)

Aggrieved by the communication of the Zonal Officer, Zone No.V, Corporation of Chennai, second respondent herein dated 01.02.1999, the Arumbakkam Harijan Co.operative Building Society Ltd., has filed the above writ petition to quash the same and consequently direct the respondents to hand over the possession of the plot in Re-survey No.157/1 situated at Kalki Nagar, Arumbakkam, Chennai-106, to them for the purpose of building a temple and maintaining it on their own.

2. The President of the petitioner Society has filed the above writ petition. According to him, in the year 1995 the Government assigned certain lands measuring an extent of 4 acres and 9 cents in Survey No.162/1, 162/3, 157/1 towards Harijan Welfare, to be used as house sites. On such assignment, the persons who had been allotted lands built their own houses and started residing there. The petitioner Society was formed and registered in the year 1956 and they also formed a lay out earmarking certain lands for roads, shopping complex, playground for children, community hall and temples, which was also approved by the first respondent even on 14.02.1972. However, in the year 1975, the Society sold the areas earmarked for the public purposes to the first respondent for a token sum of Rs.1/- alone with the object that the first respondent will do the best in developing the plots towards the public purposes to which the lands should have been used for. Further, till today, the first respondent herein have not done anything for the benefit of the members of the petitioner Society. It is also stated that the petitioner Society made a representation to the authorities concerned. Pursuant to their representation, the second respondent sent a impugned communication dated 01.02.1999, declining to accede their request. It is further seen that in anticipation that necessary permission will be granted, the petitioner Society has installed one Vinayagar statue in a specified place.

3. The Commissioner, Corporation of Chennai has filed a counter affidavit disputing various averments made in the affidavit filed in support of the writ petition. It is stated that the land in Survey No.157/1B, T.S.No.25 to 27, 57 to 88 and R.S.No.162, T.S.No.34 to 42, 44, 45, 50, 51, 52 in Block 15 Arumbakkam Village was purchased by the Corporation of Chennai by virtue of sale deed dated 28.02.1975 for a nominal sale consideration. From the date of sale, the Corporation is in continuous possession and enjoyment of the suit property as absolute owner. The Commissioner has not received any representation as claimed by the petitioner. In the larger interest of the general public, the Corporation has decided to allot the said site for the use of selling up or establishing a kerosene bunk by the Civil Supplies Corporation, the petitioner Society has no right or title towards the property. The

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petitioner Society has alienated their title as early as in the year 1975 to the Corporation of Chennai and from that date onwards the same is in continuous possession and enjoyment of the property. During second week of January, 1999 a compound wall construction was commenced and the same was completed in March, 1999. At the time of commencement of the above said work, the land was vacant and no building or any other structure was there. Before the completion, i.e., in the month of March, 1999, suddenly a small temple measuring about 8'x8' was built at the center of the land during holidays and the same was removed by the Corporation. In the meanwhile, again a portion of temple was put up by the encroachers. There is no infirmity or illegality in the impugned communication, which is made only in the larger interest of public to set up kerosene supply bunk by the Civil Supplies Corporation, that too based on a valid sale deed dated 27.02.1975.

4. In the light of the above pleadings, we heard the learned counsel for the petitioner as well as respondents.

5. In addition to their respective claim of both parties, we also perused the layout sketch as well as the xerox copy of the sale deed dated 27.02.1975. As rightly pointed out by the learned counsel for the respondents and also admitted by the petitioner that certain lands were originally earmarked for public purpose like, temple, office etc. Subsequently, i.e., on 27.02.1975, the then Secretary to the petitioner society sold all those lands in favour of the Commissioner, Corporation of Chennai for a nominal amount of Rs.1/-. It is the specific case of the Corporation that from that date onwards those lands vest with the Corporation. It is also seen from the counter affidavit that the said lands which were earmarked for public purpose continued to be used only for public purpose, viz., kerosene supply bunk shop is going to be installed by the Civil Supplies Corporation, the said action cannot be faulted with. After the execution of the sale deed on 27.02.1975, the petitioner Society cannot object the action of the respondents so long as they utilise those lands for public purpose. We hope and trust that the respondents will utilise these lands only for the benefit of the public and allottees of the petitioner Society in particular.

With the above observation, the writ petition is dismissed. No costs. Consequently, the connected WPMP., is also dismissed.

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Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

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1 CC TO M/S T. MATHI, ADVOCATE SR NO 10539

Writ Petition No.6562/1999

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